

Pub. Imp. _____
Govt. Grnt. _____
Emer. _____
IPO Required _____
P. Hmgs. _____
Pgs. 7
Filed: 11-18-03

Sponsored by: Manley

First Reading: _____

Second Reading: _____

COUNCIL BILL NO. 2003 - 374

SPECIAL ORDINANCE NO. _____

AN ORDINANCE

1 AUTHORIZING the City Manager, or the Assistant City Manager, on behalf of the City of
2 Springfield, Missouri, to enter into a license agreement with Gary L.
3 Thomas, Daniel Pritchett and Margaret Pritchett for the purpose of
4 allowing the installation of two planters on City right-of-way at 307 Park
5 Central East.
6

7
8
9 BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SPRINGFIELD, MISSOURI, as
10 follows:
11

12 Section 1 - That the City Manager, or the Assistant City Manager, on behalf of the
13 City of Springfield, Missouri, is hereby authorized to enter into a license agreement with
14 Gary L. Thomas, Daniel Pritchett and Margaret Pritchett, said agreement to be
15 substantially identical in form and content as Exhibit I attached hereto.
16

17 Section 2 - This ordinance shall be in full force and effect from and after passage.
18

19
20 Passed at meeting: _____
21

22
23 _____
24 Mayor

25
26 Attest: _____, City Clerk
27

28
29 Approved as to form: [Signature], City Attorney

30
31 Approved for Council action: [Signature], City Manager
32

ROUTING ORDER	(1) ORIGINATING DEPT. / OWNER	(2) PWKS - TRAFFIC ENGINEERING	(3) FINANCE DEPARTMENT
	(4) LAW DEPARTMENT	(5) CITY MANAGER'S OFFICE	(6) CITY CLERK'S OFFICE
EFFECTIVE DATE	TERMINATION DATE	CONTRACT NUMBER:	
(X) NEW CONTRACT		() RENEWAL OF CONTRACT No. _____	
CITY		OWNER	
CITY OF SPRINGFIELD 840 BOONVILLE, P.O. Box 8368 SPRINGFIELD, MO 65802		Name:	
		Address:	
Attention:		Attention:	
Department:		Phone:	Fax:
Phone:	Fax:	Tax ID Number:	

AGREEMENT

THIS AGREEMENT, made and entered into this ____ day of _____, 20____, by the parties identified above.

- The City in consideration of the covenants and agreements hereinafter contained to be kept and performed by the Owner, hereby grants permission to Owner to erect, install, remove, construct, an maintain over, under and above on certain City right-of-way area, **Two Planters at 307 Park Central East**, in accordance with plans and specifications, and at the location shown on, Exhibit 1 attached hereto and incorporated herein.

- Owner shall erect, install, remove, construct or maintain such planters in strict accordance with the plans and specifications and only in such locations as shown on Exhibit I, with the final location on the ground approved by the Director of Public Works.

- Owner states the plans shall comply with the requirements of the City Public Works Department and any other applicable City ordinances or requirements.

- Owner shall, at Owner's expense, do the work of erecting, installing, removing, constructing, or maintaining said planters in accordance with City standards. All work done hereunder by Owner shall be under the direction and subject to the inspection and approval of the Director of Building Regulations and the Director of Public Works, or other authorized representatives, who shall have full authority to direct the time and manner of doing the work and require the same to be done as he directs; and if Owner fails or refuses to comply with their directions, said Directors, or other authorized representatives, may stop the work altogether.

- The Owner shall at all times during the term of this agreement carry a commercial liability insurance policy in an amount not less than two million dollars for all claims arising out of a single occurrence and three hundred thousand dollars for any one person in a single accident or occurrence, resulting from the erection, installation, removal, construction, or maintenance of said planters over, under and across City rights-of-way. Coverage shall include contractual liability endorsement. Owner agrees to furnish the City with a certificates of insurance evidencing that Owner will have at all times during the term of this agreement the above required insurance. All insurance policies shall provide thirty (30) days written notice to be given to the City prior to modification or cancellation of such insurance. Such notice shall be mailed to the City Attorney, City of Springfield, PO Box 8368, Springfield, MO 65801.

- The City shall have the absolute right at its discretion, with or without cause, to terminate this agreement or refuse to allow the Owner to continue to have the planters on or over the City property upon giving the Owner thirty (30) days written notice. If the City determines that the City property is being substantially damaged, or that the Owner has failed to maintain the required insurance on file with the City, or that the planters constitute a hazard to the traveling public or other users of the

rights-of-way, it shall provide to Owner seven (7) days' written notice that this license shall be canceled. After receipt of the thirty or seven days notices herein, the Owner shall thereafter immediately remove the planters from over, under or across City rights-of-way and restore the City property to the same or better condition than that in which it existed prior to the installation of the planters by the Owner. In the event the Owner fails to immediately remove the planters and restore the rights-of-way, the City may cause the same to be done at the cost of the Owner.

6. Owner, as a further consideration for the aforesaid license, hereby agrees to indemnify and save harmless the City from any and all claims, demands, causes of action, damages, judgments, costs, attorney's fees and expenses that City may sustain, incur or become liable for on account of loss or destruction of or damage to property whatsoever and death of or injury to persons whomsoever resulting from any negligence of the licensee, contractor or agents, or by any reason of defects in the planters or damages resulting from the placement, collapse, failure or combustion of any part thereof. The Owner agrees to be responsible for all losses or destruction of or damage to any property of the City, including said right-of-way, growing out of the erection, installation, removal, construction, or maintenance of said planters, or the failure of Owner to comply fully with Owner's obligations hereunder. In no event shall City be liable to Owner or any third person for damage or injury to Owner's facilities and property placed on the right-of-way pursuant to this license.

7. This license shall terminate upon any of ownership of the abutting property of Owner at 307 Park Central East, or upon a change of use of said property, except that Owner's obligation to restore the premises in paragraph 5 and Owner's obligation to indemnify the City, as set forth in paragraphs 6 and 7, as to any occurrence happening before or at the time of the removal of the planters, shall survive termination.

8. All notices required or permitted herein under and required to be in writing may be given by first class mail addressed to City and Owner at the address shown above or by facsimile transmission. The date of delivery of any notice by mail shall be the date falling on the second full day after the day of its mailing.

9. This agreement contains the entire agreement of the parties. No modification, amendment, or waiver of any of the provisions of this agreement shall be effective unless in writing specifically referring hereto, and signed by both parties.

10. This agreement and every question arising hereunder shall be construed or determined according to the laws of the State of Missouri. Should any part of this agreement be adjudicated, venue shall be proper only in the Circuit Court of Greene County, Missouri.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year herein stated.

Designated Location is not within Federal Aid Urban System

Assistant Director of Public Works - Traffic Engineering

CERTIFICATE OF DIRECTOR OF FINANCE

I certify that the expenditure contemplated by this document is within the purpose of the appropriation to which it is to be charged and that there is an unencumbered balance of appropriated and available funds to pay therefor.

Fred Fantauzzi, Director of Finance

APPROVED AS TO FORM

Assistant City Attorney

OWNER: Gary L. Thomas, a single person, and Daniel Lee Pritchett and Margaret M. Pritchett, husband and wife.

Gary L. Thomas

Daniel Lee Pritchett

Margaret M. Pritchett

CITY OF SPRINGFIELD, MISSOURI

By: _____
Bob Cumley, Assistant City Manager

SINGLE PERSON'S ACKNOWLEDGMENT

STATE OF _____)
) ss
COUNTY OF _____)

On this _____ day of _____, 2003, before me personally appeared Gary L. Thomas, to me personally known to be the person described in and who executed the foregoing instrument, of his/her free act and deed and said _____ further declared himself to be a single and unmarried person.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, in my office in _____ the day and year first above written.

Notary Public

My commission expires: _____

ACKNOWLEDGMENT OF HUSBAND AND WIFE

STATE OF _____)
) ss.
COUNTY OF _____)

On this _____ day of _____, 2003, before me personally appeared Daniel Lee Pritchett and Margaret M. Pritchett, his wife, to me known to be the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, at my office in _____, the day and year first above written.

Notary Public

My commission expires: _____

N:\SHARE\GARY\Acknowl thomas single person.wpd

ACKNOWLEDGMENT

STATE OF MISSOURI)
) ss.
COUNTY OF GREENE)

On this ____ of _____, before me personally appeared _____, to me personal known, who being by me duly sworn, did state that he is the _____ of the City of Springfield, Missouri, and that the foregoing instrument was signed on behalf of the City under the authority thereof; and the said _____, acknowledged said instrument to be the free act and deed of said City.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, at my office in Springfield, Greene County, Missouri, the day and year first above written.

Notary Public

My Commission Expires: _____

EXHIBIT 1 WILL BE ATTACHED TO THIS

AGREEMENT PRIOR TO EXECUTION

Aff. Agcy. Notified _____
Emergency Required _____
P. Hrngs. Required _____
Fiscal Not Required _____
Board Rec. Required _____

EXPLANATION TO COUNCIL BILL NO. 2003- _____

ORIGINATING DEPARTMENT: Public Works

PURPOSE: To authorize an agreement between the City of Springfield and Gary L. Thomas, Daniel Lee Pritchett and Margaret M. Pritchett to install and maintain flower boxes on public right-of-way in front of 307 Park Central East.

BACKGROUND INFORMATION: On the south side of the building located at 307 Park Central East, the owners are wanting to place two concrete pots between two and half to three feet tall, and about two feet in diameter on City right of way. They wish to plant a variety of miniature evergreen with a foliage width of between ten and fourteen inches, at a height of about three feet. See attached drawing for the approximate location of the landscaping.

REMARKS: The license agreement permits the owner to install and maintain two planters at 307 Park Central East.

FINANCIAL: Insurance is required of the licensee to protect the interests of the City of Springfield in connection with this project.

RECOMMENDATION: The City Traffic Engineer recommends approval of the license agreement to install the planters.

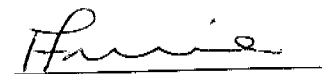
Submitted by:


City Traffic Engineer

Approved by:


Director of Public Works

Approved by:


City Manager